

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA : 07 Cr. 913 (KMK)
:
- against - :
:
PHILIP ETKIN, :
Defendant. :
:
-----x

AFFIRMATION OF KERRY A. LAWRENCE, ESQ.

KERRY A. LAWRENCE, ESQ., an attorney admitted to practice before this Court, affirms under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I represent the defendant, PHILIP ETKIN, in the above-captioned case.
2. Attached to this affirmation is a copy of a letter I sent to government counsel on October 31, 2007 asking that all copies of the email communication between the defendant and his wife dated March 13, 2007 be returned and that the government identify who had reviewed the email and what use had been made of it. Prior to sending this letter, I had advised government counsel that I considered the document privileged and objected to the government having reviewed it.
3. The government refused to return the email document and did not identify who had reviewed it or what use had been made of it. Government counsel has never claimed that the communication was not privileged, but has claimed that the privilege was waived.
4. Just recently I was advised by government counsel that the government intends to use the email as evidence in the prosecution of the defendant and considers the email as evidence of "intent."



Kerry A. Lawrence, Esq.

**ATTACHMENT TO AFFIRMATION OF KERRY A.
LAWRENCE, ESQ.**

**Copy of a letter from Kerry A. Lawrence, Esq.,
to the United States Attorney's Office,
dated October 31, 2007,
asking that all copies of the email
communication between the defendant
and his wife dated March 13, 2007
be returned and that the government
identify who had reviewed the email
and what use had been made of it.**

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KERRY A. LAWRENCE*

*ALSO ADMITTED IN CT
**ALSO ADMITTED IN VA & DC

October 31, 2007

VIA FAX

A.U.S.A. John P. Collins, Jr.
United States Attorney's Office
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: USA v. Philip Etkin
07 Cr. 913 (KMK)

Dear Mr. Collins:

I am writing to object to the Government's possession and use of any email or other communications between Mr. Etkin and his wife Bess.

Among the discovery already produced is at least one such communication. I ask that you return any copies that are in the possession of the Government or any entity working on this prosecution and that you identify who has reviewed this communication and what use has been made of the email.

Thank you for your attention to the matters addressed in this letter.

Very truly yours,


Kerry A. Lawrence